

Attorney Docket No.: TRUSP0105USA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of:

Applicant: James L. Baratuci, et al.

Serial No: 10/004,365

Filed: November 1, 2001

Title: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

PETITION UNDER 37 C.F.R. 1.47(b)

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Petition hereby is made to accept the filing of this application by one having a sufficient proprietary interest. This petition is supported by the following enclosures:

1. Supplemental Declaration of Facts in Support of Filing on Behalf of Omitted Inventor (37 C.F.R. 1.47); and
2. Combined Declaration and Power of Attorney by Person with Sufficient Proprietary Interest on Behalf of Omitted Inventor Who Refuses to Sign.

Enclosed is a check covering the fee for this petition. The Commissioner is hereby authorized to charge any additional fees to Deposit Account No. 18-0988.

Respectfully submitted,

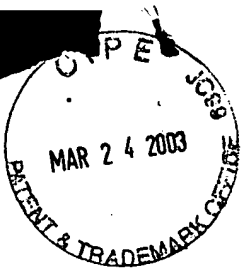
Todd R. Tucker, Reg. No. 40,850
RENNER, OTTO, BOISSELLE & SKLAR, P.L.L.
1621 Euclid Avenue, 19th Flr
Cleveland, Ohio 44115
Tel: 216-621-1113 Fax: 216-621-6165

03/24/2003 BNGUYEN1 00000089 10004365

03 FC:1460

130.00 OP

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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

TRUS.P0105USA

First named inventor: James Baratuci, et al.

Application No.: 10/004,365

Art Unit: Unknown

Filed: November 1, 2001

Examiner: Unknown

Title: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

Attention: Office of Petitions

Assistant Commissioner for Patents 05/07/2003 UEDUVIJE 00000003 10004365

Box DAC

Washington, D.C. 20231

01 FC:2051

65.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus any extensions of time
actually obtained.

Repln. Ref: 05/07/2003 UEDUVIJE 00000003 10004365
DAH:180988 Name/Number:10004365
FC: 9204 \$65.00 CR

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1300 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____
☐ is enclosed herewith.

B. The issue fee of \$_____.

- ☐ has been paid previously on _____
☐ is enclosed herewith.

C. (X) Surcharge for late filing of Declaration - \$130.00

D. (X) Petition under 37 C.F.R. 1.47(b) - \$130.00

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on
the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC
20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

03/24/2003 BNGUYEN1 00000089 10004365

01 FC:1453
02 FC:1051

1300.00 OP
-130.00 OP

Adjustment date: 05/07/2003 UEDUVIJE
03/24/2003 BNGUYEN1 00000089 10004365
02 FC:1051 -130.00 OP

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3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

3/17/03
Date

T. R. Tucker
Signature

Telephone
Number: (216) 621-1113

Todd R. Tucker

Typed or printed name

RENNER, OTTO, BOISSELLE & SKLAR, LLP

Address

1621 Euclid Avenue, 19th Fl.

Cleveland, Ohio 44115

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

3/17/03
Date

Deirdre Preston
Signature

Deirdre Preston

Type or printed name of person signing certificate

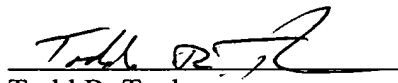


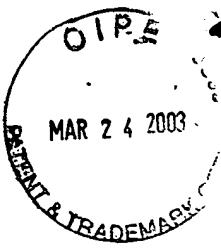
Attorney Docket No.: TRUSP0105USA

CERTIFICATE OF MAILING

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents and Trademarks, Washington, D.C. 20231.

Date 3/17/03


Todd R. Tucker



#8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of:

Applicant: James L. Baratuci, et al.

Serial No.: 10/004,365

Filed: 11/01/2001

Title: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

**SUPPLEMENTAL DECLARATION OF FACTS IN SUPPORT
OF FILING ON BEHALF OF OMITTED INVENTOR (37 C.F.R. 1.47)**

Assistant Commissioner for Patents
Washington, D.C. 20231

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Sir:

I, James L. Baratuci, am a joint inventor of U.S. Patent Application Serial No. 10/004,365 filed November 1, 2001. The application names Patrick Drda, Steven M. Milano, Theo J. van de Pol and myself as co-inventors. This declaration supplements my declaration of February 27, 2002, and incorporates it by reference.

1. On November 8, 2000, I sent Theo J van de Pol a copy of the entire patent application, as well as a combined declaration/power of attorney and an assignment. These documents were sent to Mr. van de Pol via Federal Express and facsimile. Attached as Exhibit A is a copy of the cover letter detailing my sending the patent application and the other papers.

2. After numerous communications with Mr. van de Pol, as detailed in my previous declaration and incorporated by reference herein, Mr. van de Pol refused to sign the combined declaration/power of attorney and assignment on February 25, 2002.

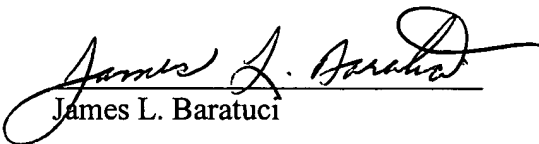
Attached as Exhibit B is a copy of the letter from Mr. van de Pol evidencing his refusal to fulfill his obligations to TruSeal Technologies, Inc. by executing the combined declaration/power of attorney and assignment.

3. Mr. van de Pol's last known address is:

Theo J. van de Pol
Eperweg 34
8181 EW HEERDE
The Netherlands.

I hereby declare that all statements made herein of my own knowledge are true or that the statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereto.

Date: 3-3-03


James L. Baratuci

TRUSEAL

Technologies

23150 Commerce Park
Beachwood, Ohio 44122
Ph: 216-910-1500
Fax: 216-910-1507

November 8, 2000

Via Facimile 31 578 695810

Theo J. van de Pol
Eperweg 34
8181 EW HEERDE
The Netherlands

Re: Patent Application for "Ribbed Tube Continuous Flexible Spacer Assembly" Ref. No.: TRUSP0105


Ref: My Letter to you dated October 4, 2000 sent via facimile

Dear Theo:

Per the letter I sent you via facimile on 4Oct, and our most recent phone conversation of 1Nov, I am sending you the enclosed documents for your review. First is a copy of TruSeal's United States Patent Application for a ribbed tube continuous flexible spacer assembly. This application should be considered the valuable and Confidential Information of TruSeal Technologies and I would ask that you treat this information accordingly. This application discloses and claims a number of inventions. Based on TruSeal's review of the SeaPines meeting as well as our own discussions, you are an inventor of at least one of these inventions. Therefor TruSeal is extending the credit which you deserve for your contributions at SeaPines and is listing you as an inventor on this patent application.

The second and third documents require your signature and are needed to file this application with the US Patent Office. I ask that you review and execute these documents and return them via overnight delivery service within 5 working days after to you receive them. As we discussed previously TruSeal will reimburse you for any reasonable personal expenses you may incur to review and return these documents. Please call me to discuss any questions you may have.

Most Sincerely,



Jim Baratuci
Director of R&D

Cc

Todd R. Tucker
M. Bart Sauer

Renner, Otto, Boisselle, & Sklar
Arter & Hadden

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TruSeal Technologies
f.a.o. Mr J.L. Baratuci
23150 Commerce Park
Beachwood, Ohio 44122
U.S.A.

Heerde, February 25, 2002

Subject: Ribbed Tube Continuous Flexible Spacer Assembly

Dear Jim,

Via internet I understand that the patent application of TruSeal for the "Ribbed Tube Continuous Flexible Spacer Assembly" is pending.

As I already indicated to you several times I am of the opinion that I am the first inventor of this development, of which my first ideas date already from 1993.

As a consequence it is within my right to market this concept either by myself or via third parties, because I have never given TruSeal a verbal or written permission to apply for a patent under the TruSeal name.

If you have any questions on this issue, please do not hesitate to contact me.

With kind regards


Theo van de Pol

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COMBINED DECLARATION AND POWER OF ATTORNEY
(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Title: **RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY**

the specification of which

☒ is attached hereto, or

☐ was filed as United States Application No.:
Application or PCT International (Express Mail Label No.)
Application (give Express Mail Filing Date:
label number and deposit date if (Deposit Date)
Application number not yet known): Amended on (if applicable):

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations ' 1.56(a).

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S) UNDER 35 U.S.C. 120

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of 35 USC 112, I acknowledge the duty to disclose material information as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Application No.	Filing Date	Patent Number

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATION(S) UNDER 35 U.S.C. 119(e)

I hereby claim the benefit under 35 USC 119(e) of any United States provisional application(s) that is/are listed below

Application No.	Filing Date
60/246,865	November 8, 2000

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POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

Name	Registration No.	Name	Registration No.
Todd R. Tucker	40,850	Thomas W. Adams	35,047
Don W. Bulson	26,192	Jay R. Campbell	33,660
Mark C. Johnson	51,854		

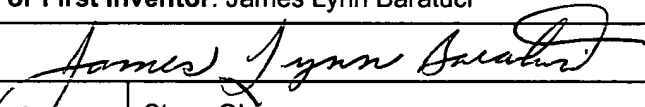
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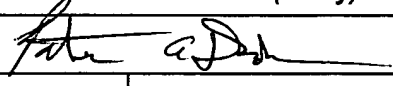
Todd R. Tucker, Esq.
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Ave. - 19th Floor
Cleveland, Ohio 44115

Direct Telephone Calls To:

Name: Todd R. Tucker, Esq.
Tel. No: 216/621-1113
Fax No. 216/621-6165

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued therein.

Full Name of Sole or First Inventor: James Lynn Baratuci			
Inventor's signature:		Date:	3-3-03
Residence: (City & State/Country):	Stow, Ohio	Citizenship:	USA
Post Office Address:	3840 Kenwood Drive, Stow, Ohio 44224		

Full Name of Additional Joint Inventor (if any): Patrick Anthony Drda			
Inventor's signature:		Date:	3/3/03
Residence: (City & State/Country):	Lyndhurst, Ohio	Citizenship:	USA
Post Office Address:	1187 Irene Road, Lyndhurst, Ohio 44124		

CHECK FOR ANY OF THE FOLLOWING ADDED PAGES(S) WHICH
FORM A PART OF THIS DECLARATION

☒ Signature for third and subsequent joint inventors. Number of pages added 1.
☐ Added page to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.
☐ This declaration ends with this page.

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Full Name of Sole or First Inventor: Steven Michael Milano			
Inventor's signature:	<i>Steven Michael Milano</i>		Date: 3/3/03
Residence: (City & State/Country):	Aurora, Ohio	Citizenship:	USA
Post Office Address:	10104 CrowsNest Cove, Aurora, Ohio 44202		

Full Name of Additional Joint Inventor (if any): Theo J Van de Pol			
Inventor's signature:			Date:
Residence: (City & State/Country):	Netherlands	Citizenship:	
Post Office Address:	Eperweg 34, 8181 Ew Heerde		

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